

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

STEVEN DUNCAN, Petitioner, vs. BOB DOOLEY, ATTORNEY GENERAL FOR THE STATE OF SOUTH DAKOTA, Respondents.	4:17-CV-04141-KES ORDER ADOPTING REPORT AND RECOMMENDATION
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Petitioner, Steven Duncan, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. Docket 1. The petition was referred to United States Magistrate Judge Veronica L. Duffy under 28 U.S.C. § 636(b)(1)(B) and this court's October 16, 2014, standing order. Defendants moved to dismiss the petition. Docket 8. Magistrate Judge Duffy filed a report and recommendation recommending that Duncan's petition be dismissed. Docket 12.

Objections to the report and recommendation were due by December 27, 2017. The time for objections has passed. Duncan did not file objections to the report and recommendation. The court has considered the case de novo and adopts the report and recommendation in full.

Based upon the reasons stated in the report and recommendation and under Federal Rule of Appellate Procedure 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional

right. Thus, a certificate of appealability is not issued. *See* 28 U.S.C. § 2253(c)(2) (“A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right”).

Thus, it is ORDERED

1. The report and recommendation (Docket 12) is adopted in full.
2. Respondents’ motion to dismiss (Docket 8) is granted.
3. Petitioner’s pro se petition for habeas corpus (Docket 1) is dismissed with prejudice.
4. No certificate of appealability is issued.

DATED this January 2, 2018.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE